

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Central Illinois Light Company)	
d/b/a Ameren CILCO)	
)	
Central Illinois Public Service Company)	
d/b/a Ameren CIPS)	
)	Docket No. 10-0568
Illinois Power Company)	
d/b/a AmerenIP)	
)	
Verified Petition for Approval of)	
Integrated Electric and Natural)	
Gas Energy Efficiency Plan)	

**BRIEF ON EXCEPTIONS ON REHEARING OF THE STAFF OF
THE ILLINOIS COMMERCE COMMISSION**

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Now comes the Staff of the Illinois Commerce Commission ("Staff"), by its attorneys, and pursuant to Section 200.830 of the Commission's Rules of Practice, 83 Ill. Adm. Code 200.830, respectfully submits this Brief on Exceptions on Rehearing ("BOE on Rehearing") to the Administrative Law Judge's Proposed Order on Rehearing ("ALJPO on Rehearing") issued on April 15, 2011. Staff's sole exception addresses the proposed adoption of the AG/ELPC/NRDC clarification.

I. Introduction

The ALJPO on Rehearing generally provides an accurate and detailed summary of the positions of the parties and reaches conclusions with respect to all issues that are consistent with applicable requirements under the Illinois

Public Utilities Act (“PUA”). Staff, nonetheless, has a few recommended edits to the ALJPO on Rehearing in the form of replacement language.

II. Staff Exceptions

A significant change incorporated into the ALJPO on Rehearing involves the adoption of the Illinois Energy Efficiency (“EE”) Stakeholder Advisory Group (“SAG”) Net-To-Gross (“NTG”) framework. Whereas the December 21, 2010 Final Order in this docket explicitly rejected the adoption of the SAG NTG framework that was agreed to by ComEd in a Stipulated Settlement in Docket No. 10-0570, incorporates a clarification that reverses this decision. Staff believes the clarification fails to adequately consider Ameren’s Revised Electric and Gas Energy Efficiency and Demand-Response Plan (“Revised EE Plan”), contradictions with the framework contained in the Final Order, and inconsistencies with prior Commission findings in Docket No. 10-0570. Even after incorporating the PO on Rehearing’s clarifications, contradictions to the adoption of this framework still exist in the Final Order, many of which have already been incorporated into Ameren’s Revised EE Plan for Program Years: June 1, 2011 – May 31, 2014, filed on January 20, 2011 as a compliance filing in this docket. (Docket No. 10-0568, Ameren Revised EE Plan, pp. 9-26, 39-40, Compliance Filing, Jan. 20, 2011; Docket No. 10-0568, Final Order, pp. 108-109, Dec. 21, 2010)

Accordingly, Staff recommends the Commission reject the SAG NTG framework clarification because (1) it is not in the best interest of ratepayers; (2) there are a number of negative consequences affecting other parts of the Final

Order; and (3) it would have a devastating impact on the implementation of energy efficiency programs in Illinois. The SAG NTG framework relies completely on the evaluations conducted pursuant to 220 ILCS 5/8-103(f)(7) and 220 ILCS 5/8-104(f)(8). [“...an **Illinois evaluation** of that program has an estimated NTG ratio, **that ratio** can be used prospectively until a new evaluation estimates a new NTG ratio.” “...once new evaluation results exists, these would be used going forward...” “...**NTG ratios established through evaluations** would be used retroactively...” (Final Order, p. 72) (emphases added) The SAG NTG framework’s complete reliance on these evaluations in choosing the NTG ratios to use to determine whether the utility achieved its statutory energy savings goals would unduly jeopardize the independence of the Company-hired evaluators. The independence of the evaluators is required pursuant to 220 ILCS 5/8-103(f)(7) and 220 ILCS 5/8-104(f)(8). In addition, adoption of this framework would be contrary to the Commission’s previous findings in the Final Order in Docket No. 07-0540, which states: “The Commission reviews of ComEd’s plan to determine compliance with the energy efficiency goals is **separate and apart** from the independent evaluation required by Section 103(f)(7) of the statute.”

(Docket No. 07-0540, Final Order, p. 27, Feb. 6, 2008) (emphases added)

Further, the adoption of the NTG framework language as proposed in the ALJPO on Rehearing contradicts previous Commission findings. The Final Order in Docket No. 10-0570 states, “The Commission credits Mr. Brandt’s testimony that “the **risk** associated with the **NTG values is unmanageable** because ComEd does not find out how the calculated NTG values impact the program elements

until the evaluation report is received three to four months after the Plan year has ended.” (Docket No. 10-0570, Final Order, pp. 46-47, Dec. 21, 2010) (emphases added)

Moreover, the adoption of the NTG framework language as proposed in the ALJPO on Rehearing makes the Final Order internally contradictory. For example, the Final Order in Docket No. 10-0568 states:

The Commission directs Ameren to meet with the SAG before submitting its modified Plan in a compliance filing to this docket in order to determine the impact that Staff and Intervenor’s suggestions have on the cost and savings side of its revised Plan, as well as come to a consensus regarding the NTG ratio values to deem for the Plan.

(Final Order, p. 27) (emphases added)

In addition, the following language in the NTG framework is troublesome: “any recommendation that has the support of more than a majority of SAG members be submitted to the Commission along with a discussion and enumeration of the dissenting opinions.” (Final Order, p. 72) (emphasis added) Referring to the underlined text in the previous sentence, it is not clear whether a “SAG member” is considered to be represented by one person, or a vote from each organization, or of all of the people present at the meeting. Also, since SAG is open to new members, and technically the SAG has no “official” membership criteria, thus Staff finds this language particularly problematic. For example, if a current “SAG member” invites different organizations to attend the SAG meetings as “SAG members” and the different organizations hold the same opinion as the SAG member who invited them, then the finding of “support of more than a majority of

SAG members” could become more complicated, and in Staff’s opinion, unfair and not in the best interest of ratepayers.

Finally, the adoption of the NTG framework language as proposed in the ALJPO on Rehearing sets Ameren up to fail. Staff finds the risk associated with retrospective application of NTG ratios to be of particular concern, especially considering that the increased modified energy savings targets that Ameren filed in its Revised EE Plan are based on increased percentages of portfolio savings coming from the Residential Lighting Program, as directed by the Commission.¹ In fact, Ameren increased the number of CFLs by 173% in its Revised EE Plan as directed by the Commission. (Ameren Revised EE Plan, pp. 12, 37-38, Compliance Filing, Jan. 20, 2011)

Staff has presented compelling reasons that militate against adoption of this proposed clarification, including negative ramifications for Ameren’s revised EE Plan and independence of the Company hired evaluators, its inconsistency with prior Commission Orders, internal contradictions within the Final Order, and risks to the Company’s ability to achieve its EE goals. Therefore, Staff recommends that the ALJPO on Rehearing’s language on page 18 under Section III, AG/ELPC/NRDC REQUEST FOR CLARIFICATION, be modified as:

The Commission finds that the Request for Clarification regarding the TRM filed by the Movants is well founded and that the changes

¹ See Final Order, p. 29:

The Commission agrees that the increased use of CFLs, especially specialty CFLs, represent cost-effective and low-cost savings. It appears appropriate to the Commission to direct Ameren to adopt a residential light program more akin to that adopted in previous plan years, taking into account the reduced NTG ratios^[1] suggested by Staff, and agreed to by Ameren as discussed later in this Order.

to the Order regarding the TRM suggested by the Movants are appropriate and should be adopted. The Commission finds that the Request for Clarification regarding the net-to-gross ratios filed by the Movants is not well founded and that the changes to the Order regarding net-to-gross ratios suggested by the Movants are inappropriate and should not be adopted. The Commission finds that Order should be clarified in the following manner.

The seventh paragraph in the "Commission Analysis and Conclusion" beginning at the bottom of page 69 should be modified as follows.

Generally, the parties agree that the development of a TRM is appropriate. While some parties believe it is appropriate to develop a statewide TRM, others believe, at a minimum, it is premature to develop a statewide TRM. ELPC witness Crandall, for example, recommends that the SAG should take primary responsibility for developing one statewide TRM. ~~Having reviewed the record on this issue, the Commission concludes that it is neither necessary nor appropriate to order a statewide TRM in this proceeding.~~ The Commission directs that Ameren will work with other utilities subject to the requirements of Section 8-103 and 8-104 of the PUA and the SAG to develop a statewide TRM in the future for use in the upcoming energy efficiency three-year plan cycle. This will allow a consistent format to be developed for a TRM. The Commission also accepts Ameren's recommendation that Ameren, as well as ComEd, and the independent evaluators strive to understand differences in evaluation results and to reconcile differences not driven by differences in weather, market and customers.

~~Additionally, the tenth paragraph of that same section, in approximately the middle of page 70, should be modified as follows.~~

~~As an initial matter, the Commission notes that it finds some of the arguments regarding fixed values, deeming, NTG and related issues to be confusing. The Commission again rejects the AG's recommendation that "the Fixed Values be consistent with the SAG NTG framework. AG Exhibit 1.0 and the Settlement Stipulation agreed to in the ComEd EE case, Docket No. 10-0570." Not only is it somewhat unclear what specifically the AG wants, it is inappropriate to impose the terms of a settlement in another proceeding on Ameren in this proceeding. Despite the confusion, Ameren, Staff, CUB, and NRDC-ELPC appear to agree to some extent that plan savings and cost-effectiveness calculations be~~

~~made using fixed values for unit savings that apply to at least some standard measures. Among other things, CUB suggests that the Commission policy with respect to deemed parameters for gross measure savings and other parameters should be consistent across utilities. As outlined above, NRDC-ELPC identified specific standard items for which it believes deeming of gross measure savings is appropriate. NRDC-ELPC recommends that the actual deemed values be determined in a separate proceeding. Finally, the Commission notes that the timing for updated fixed value will be addressed separately below in this conclusion.~~

~~Finally, a new final paragraph should be inserted at the bottom of page 72, and the existing final paragraph beginning on the bottom of page 72 and carrying over to page 73 should be deleted as shown below.~~

~~The Commission finds the NTG framework described above reasonable, would provide consistency with the findings in the ComEd case, Docket No. 10-0570, and it is hereby approved.~~

~~Turning next to the timing for updating fixed values, the AG expressed some concerns with Ameren's proposal for updating unit savings and NTG ratios, and in response, Ameren modified its proposal. Among other things, Ameren's modified proposal, increases the speed at which new fixed values are implemented. It appears that Ameren's modified proposal, as described above, would effectively mitigate the concerns raised by the AG. Staff recommends that load shape and useful life measures be updated on an ongoing basis along with other items in a TRM. The Commission finds no evidence to support Staff's recommendation and it is therefore rejected. The Commission finds that the record of this proceeding supports adopting Ameren's modified proposal for updating unit savings and NTG ratios, as explained in the rebuttal testimony of Ameren witness Weaver, Ameren Ex. 10.0.~~

~~The remainder of the "Commission Analysis and Conclusion" contained on pages 68-73 of the December 21, 2010 Order, except as explicitly modified above, is hereby affirmed.~~

~~(Docket No. 10-0568, PO on Rehearing, pp. 18-20)~~

III. Conclusion

For the reasons set forth herein, Staff of the Illinois Commerce Commission respectfully requests that that the Commission's Final Order in this

proceeding reflect all of Staff's recommendations in this Brief on Exceptions on Rehearing.

Respectfully submitted,

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May 5, 2011

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